



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Relating to the Establishment of Wastewater Development Impact Fees by Amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, "Sewer Service," by Repealing and Reenacting Sections 13.12.020 (5) and (45), 13.12.180 (A), and 13.12.190; and Further Amending Title 15 – Buildings and Construction – Chapter 15.64, "Development Impact Mitigation Fees," by Amending Section 15.64.10 – Adding New Paragraph "F" and Relettering Paragraphs (G) and (H) – Repealing and Reenacting Sections 15.64.030 (A) and 15.64.040, Amending Section 15.64.060 – Adding Paragraph "C" – and Repealing and Reenacting Section 15.64.070 (B)

MEETING DATE: December 21, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council introduce an ordinance amending Lodi Municipal Code relating to the establishment of Wastewater Development Impact fees by amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, "Sewer Service," by repealing and reenacting Sections 13.12.020 (5) and (45), 13.12.180 (A), and 13.12.190; and further amending Title 15 – Buildings and Construction – Chapter 15.64, "Development Impact Mitigation Fees," by amending Section 15.64.10 – adding new paragraph "F" and relettering paragraphs (G) and (H) – repealing and reenacting Sections 15.64.030 (A) and 15.64.040, amending Section 15.64.060 – adding paragraph "C" – and repealing and reenacting Section 15.64.070 (B).

BACKGROUND INFORMATION: The proposed amendments to the Municipal Code implement changes to the way wastewater capacity impact fees will be charged to new development for capacity at the White Slough Water Pollution Control Facility (WSWPCF) and facilities at the Municipal Service Center (MSC).

This is a one-time fee on new development or improvements that increase loading on WSWPCF. The actual fee will be adopted by resolution following adoption of the ordinance amendments.

Background information on the proposed fee update was presented to the Council at a special meeting on November 22, 2005, at which time the Council set a public hearing for January 4, 2005. This staff report focuses only on the proposed changes to the Municipal Code which will combine the City's separate wastewater impact fee, which primarily covers costs for expansion of the MSC, and the capacity fee. This was done to simplify the fee system to only have one sewer development fee.

The proposed changes also specify when impact fees are to be paid – with the building permit. Previously these fees were collected at various times – map filing, improvement agreement, acceptance of public improvements and with building permits. This change will make this process more consistent. The only exceptions would be for the few cases in which improvements that trigger fee payment do not require a building permit, or as may be otherwise provided in a development agreement.

FISCAL IMPACT: Not applicable with this action.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

RCP/pmf
cc: Interested Parties

APPROVED:
Blair King, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE TITLE 13 – PUBLIC SERVICES, CHAPTER 13.12 “SEWER SERVICE,” BY REPEALING AND REENACTING SECTIONS 13.12.020 (5) and (45), 13.12.180 (A), AND 13.12.190; AND FURTHER AMENDING TITLE 15 – BUILDINGS AND CONSTRUCTION, CHAPTER 15.64 “DEVELOPMENT IMPACT MITIGATION FEES” BY AMENDING SECTION 15.64.10 - ADDING NEW PARAGRAPH “F” AND RELETTERING PARAGRAPHS (G) and (H), REPEALING AND REENACTING SECTIONS 15.64.030 (A) AND 15.64.040, AND AMENDING SECTION 15.64.060 ADDING PARAGRAPH “C”, AND REPEALING AND REENACTING SECTION 15.64.070 (B) RELATING TO THE ESTABLISHMENT OF WASTEWATER DEVELOPMENT IMPACT FEES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 13, “Public Services,” Chapter 13.12, “Sewer Service,” is hereby amended by repealing and reenacting Sections 13.12.020 (5) and (45), 13.12.180 (A), and 13.12.190, and shall read as follows:

13.12.020 Definitions.

5. “Capacity” or “Impact fee” means a charge as described in this chapter, levied on construction, or on new, expanded or ongoing activity, which uses POTW capacity and other wastewater facilities associated with growth. The fee is normally paid at the time of issuance of a building permit.
45. “Sewage service unit or SSU” is defined as each increment of flow equal to the flow from an average two-bedroom residence (~~two hundred and six~~ one hundred and ninety-four gallons per day) and having a strength less than three hundred milligrams per liter BOD and SS.

13.12.180 Domestic system service charges.

- A. Basis. Charges for use of the domestic system shall be determined by the volume, biochemical oxygen demand (BOD) and suspended solids (SS) of wastes discharged. In addition, charges for preparation and maintaining the Sewer Master Plan, expansion of the Public Works Administration Building and expansion of the Public Works Storage Facilities are allocated based upon volume, BOD and SS.

13.12.190 Domestic system capacity or impact fees.

The capacity fee shall cover the capital cost associated with the POTW capacity ~~which will be utilized by the discharger~~ and the planning, financing, acquisition and development of other services and facilities directly related to the utilization of capacity by the discharger. Any actual costs incurred by the city in making the physical connection (tap) shall be separate and in addition to the capacity fee described in this section.

- A. Moderate-strength user capacity fees shall be based on a rate per sewage service unit as assigned under Section 13.12.180. The capacity fee for a new commercial or industrial user shall be a minimum of one sewage service unit, and additions or modifications shall be prorated to fractions of sewage service units.
- B. High-strength user capacity fees shall be based on a unit rate for flow, BOD and SS. The estimated annual quantities of each characteristic shall be justified to, and approved by, the Public Works Director for the purpose of determining the capacity fee.
- C. City projects and projects funded by the City are exempt from capacity fees as described in this section.

Section 2. Lodi Municipal Code Title 15, "Buildings and Construction," Chapter 15.64 "Development Impact Mitigation Fees," is hereby amended by amending §15.64.10 adding new paragraph F and relettering paragraphs G and H, repealing and reenacting §§15.64.030 (A) and 15.64.040, and amending §15.64.060 adding paragraph (C), and repealing and reenacting §15.64.070 (B), and shall read as follows:

15.64.010 Findings and purpose.

- F. The specific improvements and costs for wastewater capacity impact fees are described in the City of Lodi Wastewater Capacity Fees Analysis prepared for the City by Hilton, Farnkopf & Hobson, LLC, dated August 15, 2005, and the Development Impact Fee Update Study prepared for the City by Harris & Associates, dated October 2001, copies of which are on file with the City Clerk. The calculation of the fee is presented in Title 13, Chapter 13.12 of the Lodi Municipal Code.
- G. New development will generate new demand for facilities which must be accommodated by construction of new or expanded facilities. The amount of demand generated and, therefore, the benefit gained, varies according to kind of use. Therefore, a "residential acre equivalent" (RAE) factor was developed to convert the service demand for general plan based land use categories into a ratio of the particular use's rate to the rate associated with a low-density, single-family dwelling gross acre. The council finds that the fee per unit of development is directly proportional to the RAE associated with each particular use.
- H. The city has previously approved various development projects which have made significant financial expenditures towards completion, including the payment of the then current development impact mitigation fees; but have not obtained a building permit. The city council finds and declares that such projects should be allowed to proceed without the imposition of new development impact mitigation fees imposed under this chapter.

15.64.030 Development impact funds.

- A. The city finance director shall create in the city treasury the following special interest-bearing trust funds into which all amounts collected under this chapter shall be deposited:

 - 1. Water facilities;
 - 2. Sewer facilities:
 - ~~a. General sewer facilities;~~
 - ~~b. Kettleman Lane lift station;~~
 - ~~c. Harney Lane lift station;~~
 - ~~d. Cluff Avenue lift station;~~
 - 3. Storm drainage facilities;
 - 4. Street improvements;
 - 5. Police facilities;
 - 6. Fire facilities;
 - 7. Parks and recreation facilities;
 - 8. General city facilities and program administration.

15.64.040 Payment of Fees.

- A. The property owner of any development project causing impacts to public facilities shall pay the appropriate development mitigation fee as provided in this chapter. The amount shall be calculated in accordance with this chapter and the program fee ~~per residential acre equivalent~~ as established by council resolution.
- B. When such payment is required by this chapter, no ~~final subdivision map~~, building permit or ~~site development grading~~ permit shall be approved for property within the city unless the development impact mitigation fees for that property are paid or guaranteed as provided in this chapter.
- C. The fees shall be paid ~~with before~~ the approval of a final subdivision map, building permit or ~~site development grading~~ permit, whichever occurs first except as provided in subsection (E) ~~or (F)~~ of this section.
- D. If a final subdivision map has been issued before the effective date of the ordinance codified in this chapter, then the fees shall be paid before the issuance of a building permit or grading permit, whichever comes first except as exempted under Section 15.64.110 of this chapter.
- E. Where the development project includes the installation of public improvements, the payment of fees established by this chapter may be deferred and shall be collected prior to acceptance of the public improvements by the city council. Payment of all deferred fees shall be guaranteed by the owner prior to deferral. Such guarantee shall consist of a surety bond, instrument of credit, cash or other guarantee approved by the city attorney.
- F. The fees may not be prepaid unless specified otherwise in a fee payment agreement or development agreement approved by the City Council.
- G. Notwithstanding the above, City may collect subsequent increases in impact fees or new impact fees, unless the development project is exempt from fee increases under the terms of a fee payment agreement approved by Council, a Development Agreement approved by Council or California law.

15.64.060 Calculation of fees.

- C. Sewer fees shall be calculated and collected per LMC 13.12.

15.64.070 Residential acre equivalent factor.

B. The residential acre equivalent (RAE) factors are as set out in the following table.

Land Use Categories	Water RAE	Sewer RAE	Storm Drainage RAE	Streets RAE	Police RAE	Fire RAE	Parks & Recreation RAE	General Facilities RAE
RESIDENTIAL								
Low Density	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Medium Density	1.96	1.96	1.00	1.96	1.77	1.96	1.43	1.43
High Density	3.49	3.49	1.00	3.05	4.72	4.32	2.80	2.80
East Side Residential	1.00	1.00	1.00	1.00	1.09	1.10	1.10	1.10
PLANNED RESIDENTIAL								
Low Density	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Medium Density	1.96	1.96	1.00	1.96	1.77	1.96	1.43	1.43
High Density	3.49	3.49	1.00	3.05	4.72	4.32	2.80	2.80
COMMERCIAL								
Retail Commercial	0.64	0.94	1.33	2.08	4.12	2.69	0.32	0.89
Office Commercial	0.64	0.94	1.33	3.27	3.72	2.46	0.54	1.53
INDUSTRIAL								
Light Industrial	0.26	0.42	1.33	2.00	0.30	0.64	0.23	0.64
Heavy Industrial	0.26	0.42	1.33	1.27	0.19	0.61	0.33	0.93

Section 3 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Attest:

Approved this _____ day of _____, 2005.

SUSAN BLACKSTON
City Clerk

SUSAN HITCHCOCK
Mayor

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held _____, 2005, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. _____ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

CITY COUNCIL

SUSAN HITCHCOCK, Mayor
BOB JOHNSON
Mayor Pro Tempore
JOHN BECKMAN
LARRY D. HANSEN
JOANNE L. MOUNCE

CITY OF LODI
PUBLIC WORKS DEPARTMENT

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December 15, 2005

BLAIR KING
City Manager
SUSAN J. BLACKSTON
City Clerk
D. STEVEN SCHWABAUER
City Attorney
RICHARD C. PRIMA, JR.
Public Works Director

Interested Parties *Mailing List Attached*

SUBJECT: Introduce Ordinance Amending Lodi Municipal Code Relating to the Establishment of Wastewater Development Impact Fees by Amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, "Sewer Service," by Repealing and Reenacting Sections 13.12.020 (5) and (45), 13.12.180 (A), and 13.12.190; and Further Amending Title 15 – Buildings and Construction – Chapter 15.64, "Development Impact Mitigation Fees," by Amending Section 15.64.10 – Adding New Paragraph "F" and Relettering Paragraphs (G) and (H) – Repealing and Reenacting Sections 15.64.030 (A) and 15.64.040, Amending Section 15.64.060 – Adding Paragraph "C" – and Repealing and Reenacting Section 15.64.070 (B)

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, December 21, 2005. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the regular calendar for Council discussion. You are welcome to attend.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Susan Blackston, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Wally Sandelin, City Engineer, or me at (209) 333-6706.

R. Farria
for: Richard C. Prima, Jr.
Public Works Director

RCP/pmf

Enclosure

cc: City Clerk

NCINTROWWFEEORD2A.DOC

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